

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA)	
Plaintiff,)	
)	
v.)	CASE NO. DNCW3:03CR136-1
)	(Financial Litigation Unit)
JAMES DAVID BARKSDALE,)	
Defendant,)	
and)	
)	
FORWARD AIR, INC.,)	
Garnishee.)	

ORDER OF GARNISHMENT

THIS MATTER is before the Court on the answer of Forward Air, Inc., as the Garnishee. On November 22, 2004 the undersigned sentenced the defendant 14 months incarceration for his conviction of conspiracy to defraud the United States and to Knowingly and Willfully Conspire To Commit and Attempt To Commit Bank Fraud, Bank Fraud and Aiding and Abetting same in violation of 18 U.S.C. §1349 and §1344, respectively. Judgment in a Criminal Case, filed November 22, 2004. As part of that Judgment, the Defendant was ordered to pay an assessment of \$200.00 and restitution of \$132,000.00 to the victims of the crime. *Id.*

The Government now seeks to garnish the Defendant's earnings from the garnishee. The Answer of the Garnishee provides that Garnishee anticipates additional earnings in the form of new wages (gross pay minus total tax withholdings) in the amount of \$87.39 weekly.

The United States requests that 25% of the Defendant's earnings which remain after all deductions required by law have been withheld and 100% of all 1099 payments be applied to the United States' garnishment, and that the Government's garnishment take immediate effect. *See* 28 U.S.C. § 3205(c)(10).

As a result, the Garnishee must pay over to the federal government any property in which the Defendant has a nonexempt interest. *United States v. Weddell*, 12 F.Supp.2d 999, 1000 (D.S.D. 1998), *aff'd*, 187 F.3d 634 (table), 1999 WL 319323 (8th Cir. 1999).

IT IS THEREFORE ORDERED that an Order of Garnishment is hereby **ENTERED** in the amount of \$132,000.00 computed through October 29, 2008, which attaches to any earnings of the Defendant and up to 25% shall be garnished in favor of the United States until the Defendant's restitution debt is paid in full.

Signed: December 31, 2008

A handwritten signature in black ink, appearing to read "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

